

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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KENNETH VENTRELLA,

Plaintiff,

v.

TRUMP RUFFIN TOWER I, LLC dba  
TRUMP INTERNATIONAL HOTEL LAS  
VEGAS; DOES I through XX, inclusive and  
ROE BUSINESS ENTITIES I through XX,  
inclusive,

Defendants.

2:12-cv-01450-LRH-CWH

ORDER

Plaintiff Kenneth Ventrella initiated this action in the Eighth Judicial District Court for Clark County, Nevada on May 18, 2012. On August 15, 2012, on the basis of diversity jurisdiction, Defendant Trump Ruffin Tower I, LLC dba Trump International Hotel Las Vegas (hereafter "Defendant") filed a notice of removal to this court (#1<sup>1</sup>).

After review of the complaint and Defendant's petition for removal, the court finds that it requires more evidence to determine whether it has subject matter jurisdiction over this case. While it appears that the parties are of diverse citizenship,<sup>2</sup> Defendant has not demonstrated that the

<sup>1</sup> Refers to the court's docket entry number.

<sup>2</sup> Plaintiff is a citizen of Illinois and Defendant is a corporation organized and existing under the laws of the State of Delaware and has its principal place of business in Delaware.

1 amount in controversy exceeds \$75,000.

2 “[A]ny civil action brought in a State court of which the district courts of the United States  
3 have original jurisdiction, may be removed by the defendant . . . to the district court of the United  
4 States for any district . . . where such action is pending.” 28 U.S.C. § 1441(a). Among other  
5 reasons, the district courts of the United States have “original jurisdiction” where there is diversity  
6 of citizenship between the parties and the amount in controversy, exclusive of interest and costs,  
7 exceeds \$75,000. 28 U.S.C. § 1332(a).

8 “If . . . it appears that the district court lacks subject matter jurisdiction, the case shall be  
9 remanded.” 28 U.S.C. § 1447(c). “Federal jurisdiction must be rejected if there is any doubt as to  
10 the right of removal in the first instance.” *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992)  
11 (*citing Libhart v. Santa Monica Dairy Co.*, 592 F.2d 1062, 1064 (9th Cir. 1979)). Moreover, the  
12 removal statute is construed restrictively and in favor of remanding a case to state court. *See*  
13 *Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100, 108-09 (1941); *Gaus*, 980 F.2d at 566.

14 After a defendant files a petition for removal, the court must determine whether federal  
15 jurisdiction exists, even if no objection is made to removal. *See Rains v. Criterion Systems, Inc.*,  
16 80 F.3d 339, 342 (9th Cir. 1996). The defendant always has the burden of establishing that  
17 removal is proper. *Gaus*, 980 F.2d at 566. Normally this burden is satisfied if the plaintiff claims a  
18 sum greater than the jurisdictional requirement. *Id.*

19 However, if the plaintiff does not claim a sum greater than the jurisdiction requirement, the  
20 defendant cannot meet its burden by merely alleging that the amount in controversy is met: “The  
21 authority which the statute vests in the court to enforce the limitations of its jurisdiction precludes  
22 the idea that jurisdiction may be maintained by mere averment . . . .” *Id.* (*quoting McNutt v. Gen.*  
23 *Motors Acceptance Corp.*, 298 U.S. 178, 189 (1936)) (emphasis omitted).

24 In some cases, it may be “‘facially apparent’ from the complaint that the jurisdictional  
25 amount is in controversy.” *See Singer v. State Farm Mut. Auto. Ins.*, 116 F.3d 373, 377 (9th Cir.

1 1997) (delineating the “appropriate procedure for determining the amount in controversy on  
2 removal” as described in *Allen v. R & H Oil & Gas Co.*, 63 F.3d 1326 (5th Cir. 1995)). However,  
3 “[w]hen the amount is not facially apparent from the complaint, the court may consider facts in the  
4 removal petition and may require parties to submit summary-judgment-type evidence relevant to  
5 the amount in controversy at the time of removal.” *Kroske v. U.S. Bank Corp.*, 432 F.3d 976, 980  
6 (9th Cir. 2006) (internal quotation marks omitted).

7 Here, in arguing that the amount in controversy requirement has been satisfied, Defendant  
8 relies solely on the allegations in the complaint. However, the court finds that it is not facially  
9 apparent from the complaint that more than \$75,000 is in controversy. To the contrary, based on  
10 the allegations in the complaint, the amount in controversy could easily be less than the  
11 jurisdictional threshold. Accordingly, jurisdiction has not been established.

12 The court will provide Defendant additional time to present “summary-judgment-type  
13 evidence” showing by a preponderance of the evidence that this case meets § 1332(a)’s amount in  
14 controversy requirement.

15 IT IS THEREFORE ORDERED that Defendant is granted twenty (20) days to establish the  
16 minimum amount in controversy for federal jurisdiction. Plaintiff is granted ten (10) days to file an  
17 opposition. No reply is required.

18 IT IS SO ORDERED.

19 DATED this 22nd day of August, 2012.



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LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE